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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 3655/0302PUS1								
<p>I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]</p> <p>on _____ Signature _____</p> <p>Typed or printed name _____</p>		Application Number 10/674,515 First Named Inventor LARSON Art Unit 2617 Examiner Karikari, Kwasi								
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <table> <tr> <td><input type="checkbox"/> applicant/inventor. </td> <td><u>/Scott T Wakeman #37750/</u> Signature</td> </tr> <tr> <td><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</td> <td><u>Scott T. Wakeman</u> Typed or printed name</td> </tr> <tr> <td><input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>37750</u></td> <td><u>1,703,621,7140</u> Telephone number</td> </tr> <tr> <td><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34. _____</td> <td><u>October 5, 2011</u> Date</td> </tr> </table> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p>			<input type="checkbox"/> applicant/inventor. 	<u>/Scott T Wakeman #37750/</u> Signature	<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)	<u>Scott T. Wakeman</u> Typed or printed name	<input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>37750</u>	<u>1,703,621,7140</u> Telephone number	<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34. _____	<u>October 5, 2011</u> Date
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<input type="checkbox"/> *Total of _____ forms are submitted.										

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): LARSON, Keith N.	Conf. No.: 4111
Application No.: 10/674,515	Art Unit: 2617
Filed: September 30, 2003	Examiner: Kwasi Karikari
Title: EMERGENCY NOTIFICATION SYSTEM USING PRESENCE, TRIANGULATION, AND WIRELESS TELEPHONY	

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

STATEMENT IN SUPPORT OF REQUEST FOR PRE-APPEAL BRIEF REVIEW

Sir:

This is the third Notice of Appeal to be filed in this application. The two prior Notices of Appeal resulted in the reopening of prosecution. After eight years of pendency and ten Office Actions, it is respectfully submitted that all claims are either in condition for allowance or ready for review by the Board of Appeals. Reconsideration and allowance of all claims is earnestly solicited in view of the following remarks.

Claims 15 and 17 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. Applicant identified support for these claims when they were added to the application on May 18, 2011. Applicant again identified support for these claims in the Reply After Final Rejection filed on September 7, 2011. The examiner has not explained why the material cited to support claims 15 and 17 is inadequate to support these claims, and no response to Applicant's arguments was provided in the Advisory Action. Support for claims 15 and 17 is present in the record, and the withdrawal of the rejections of claims 15 and 17 under 35 U.S.C. 112, first paragraph, is respectfully requested.

Claim 5 is rejected under 35 U.S.C. 102(e) as being unpatentable over Graske.

Claim 5 recites a method for a cell phone service provider to communicate to a cell phone user (that user located in a particular local geographical area) an alert message regarding a first condition that affects that particular local geographical area. The method includes receiving the alert message from a reporting agency, where the message contains information as to locations affected. The method also includes determining that the cell phone of the user is located in the geographical area and providing to the cell phone of the user at least one communication advising the user of the alert message. The method also includes permitting the user to limit the frequency at which updates are provided to him.

Applicant has repeatedly argued that Graske does not show at least the limitation "permitting the user to limit the frequency at which updates are provided to him." Graske only provides weather alerts when a user is "registered with" a notification service. If the user is not registered, no weather alerts are provided. Stopping all alerts from being sent to a user does not constitute limiting the frequency at which communications are provided. By analogy, if a person cancels a subscription to a magazine, one would not say that he has limited the frequency at which the magazine is sent to him. The acts of stopping and cancelling do not constitute "limiting a frequency," and the art of record does not suggest the invention of claim 5 for at least this reason.

Furthermore, the examiner has not indicated that the foregoing limitation is disclosed by Graske as required to support a rejection under 35 U.S.C. 102. Instead, the examiner asserts that "provision or withholding of weather alert at specific periods is being associated with the limiting the frequency at which said communications are provided." The examiner has not identified any legal authority for this novel "being associated with" basis for rejecting a claim under 35 U.S.C. 102, and the rejection of claim 5 is submitted to be improper for this reason as well.

Claim 12 is submitted to be allowable for substantially the same reasons as claim 5.

Independent claims 1, 7, 8 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Graske in view of Hunter. Claim 1 recites a method for a cell phone service provider to communicate to a cell phone user, who is located in a particular local geographical area, an alert message that affects that particular local geographical area.

The method includes, inter alia, identifying a destination, and communicating to the user directions from his present location to the destination. The examiner acknowledges that Graske does not show at least identifying a destination and communicating to the user directions from his present location to the destination. Hunter is cited to address this deficiency. However, Hunter does not show identifying a destination and communicating directions from a present location to the destination. Therefore, even if Hunter is combined with Graske, the combination does not show or suggest the invention of claim 1.

The examiner indicates that Hunter shows identifying a destination and providing directions to the destination in paragraphs 0055, 0122 and 0123. Paragraph 0055 indicates that a user may receive "directions for escape." However, paragraph 0055 does not indicate that these "directions" are to any identified destination. They appear to be merely instructions that the recipient should escape from wherever he is because the location is dangerous. This statement therefore does not show the limitations of claim 1. Paragraph 0055 also indicates that a user might be "directed to the roof." The roof is an identified destination. However, identifying a destination does not constitute providing directions from a present location to the destination. For example, if a person asks for directions to the White House, telling that person "go to the White House" does not constitute providing directions. Advising a person to go to the roof of a building does not constitute providing a user with directions from a present location to the destination. At most the combination of Graske and Hunter might suggest providing a user with a message such as "escape from where you are" or "go somewhere safe" but the result would not be a method that identifies a destination and provides a user with directions from where they are located to that destination as recited in claim 1.

Paragraph 0122 of Hunter indicates that an "emergency notification may then be sent to the residents of the building informing them of the nearest routes for leaving the building..." This does not constitute an identification of a destination or directions from a present location to the destination. Paragraph 0123 of Hunter indicates that in the event of a tornado, some people may be notified to leave the area to the east and others to leave the area to the west. Again, "to the east" and "to the west" are not destinations or directions from a present location to a destination. Thus, Hunter provides no reason for

a person of ordinary skill in the art to modify Graske in a manner that would result in the invention of claim 1.

Claims 7, 8 and 14 are submitted to be allowable for at least the same reasons as claim 1. All claims depending from these claims are submitted to be allowable at least because of their dependence from allowable base claims.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Graske in view of Ven. Claim 15 recites that limiting the frequency at which communications are provided comprises permitting a user to limit the frequency at which updates regarding the first condition are provided to him while allowing the cell phone of the user to receive an alert message regarding a second condition different than the first condition when updates regarding the first condition are being limited. Claim 5, from which claim 15 depends, defines the "first condition" as a first condition that affects the local geographic area in which the user is located.

Ven is cited to show the above underlined limitations of claim 15. Specifically, the examiner refers to paragraph 0031 of Ven where Ven discloses providing a user with updates to a list of event criteria. The list of event criteria in Ven is a list of events that might trigger a user notification, a failure of a certain node in a network, for example. A corresponding list of "event criteria" in Graske might be, for example, a list of the events about which a user wishes to receive notifications. The list might include, e.g., "tornados, fire, hurricanes, traffic." Thus at most, Ven might suggest allowing a user of Graske's device to receive a reminder regarding what types of warnings he is signed up to receive. This has nothing to do with limiting the frequency for updates of a first condition affecting the local geographic area of the user while continuing to receive alerts regarding a second condition affecting the local geographic area of the user as recited in claim 15.

Furthermore, a legally sufficient reason for modifying Graske based on Ven has not been provided as required by *KSR International Co. v. Teleflex, Inc.*, 550 U.S. 398 (2007). The reason provided by in the Office Action is quoted below together with Applicant's comments. "It would have been obvious ... to have combined the teaching of Ven with Graske for the benefit of achieving a notification system...." Graske already discloses a notification system. There is no need to modify Graske to produce a

notification system. It is further stated that the notification system is one "...that disseminates notification content to a subset of people based on filtering criteria...." Graske already disseminates notification content to a subset of people based on filtering criteria (such as geographic location). There is no need to modify Graske to produce a system that disseminates notification content. The examiner further asserts that the modification thereby provides "useful information..." The information in Graske is already submitted to be useful. No change to Graske is needed to provide useful information. And finally, the modification is said to allow "...managing resource in an efficient matter [sic]." The meaning of this last statement is unclear because there is no indication that any resource in Graske is being managed inefficiently or that any teaching of Ven will allow a resource in Graske to be managed more efficiently. A proper reason for modifying Graske has not been provided and claim 15 is submitted to be allowable over the applied references.

Claim 17 is submitted to be allowable for at least the same reasons as claim 15.

Wherefore, reconsideration and allowance of all claims is earnestly solicited.

Respectfully submitted,

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